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Technology Center 2100

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/785,240
Filing Date: February 20, 2001
Appellant(s): HART, MATTHEW THOMAS

Kevin Zilka
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 26, 2007, appealing from the Office

action mailed January 3, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under

appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9-11, 21-23, 33-35 and 37-43 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Pollack et al (US Pat No: 6,546,390) in view of Dieterman (US

Pat No: 6,393,464), hereafter referred to as Pollack and Dieterman, respectively.

1. With respect to claims 9, 21 and 33, Pollack teaches through Dieterman, a

computer program product comprising a computer program operable to control a

computer to process received e-mail messages, said computer program

comprising: (i) e-mail filtering logic operable to receive an e-mail message and to

apply at least one test to identify a received e-mail message as a potentially

unwanted e-mail message; and (ii) message forwarding logic operable to forward

said potentially unwanted e-mail message to its addressee together with a

prompt for said addressee to provide feedback as to whether or not said received

e-mail message is an unwanted e-mail message (column 6, line 45 – column 7,

line 3, Pollack); wherein a rule associated with said e-mail filtering logic is added

if a threshold of a predetermined number of votes positively identifies said

potentially unwanted e-mail message as an unwanted e-mail message (column

3, lines 51-60, Pollack); wherein said e-mail filtering logic uses a scoring

algorithm responsive to identification of predetermined words within said received

e-mail message and a message size of said received e-mail message to identify

said received e-mail message as a potentially unwanted e-mail message (text

search means found within column 8, lines 10-25 and column 5, lines 1-5,

Pollack) (file size means are found within column 6, lines 19-23, Pollack).

(Pollack discloses the response from the user but does not specifically

disclose the prompt that is sent to the user with the potentially unwanted (spam)

email. However, Dieterman, in the same field of endeavor, discloses prompting

an administrator for approval of a potentially unwanted e-mail message

(Dieterman, column 5, lines 24-46). It would have been obvious to one having

ordinary skill in the art at the time the invention was made to incorporate an

approval prompt, disclosed by Dieterman, into the email filtering system

disclosed by Pollack, in order for parents to filter unwanted e-mail messages

(column 1, lines 41-50, Dieterman)).

2. With regards to claims 10, 22 and 34, Pollack teaches through Dieterman, a

computer program product wherein said potentially unwanted e-mail message is

forwarded encapsulated within a markup language document including a

hypertext markup language document capable of being displayed utilizing a

network browser, the document providing voting buttons to allow said addressee

to provide said feedback (Pollack provides means for the emails to be retrieved

through a web interface (column 6, lines 30-32, Pollack). Pollack's design also

allows for a voting interface (column 9, line 60 – column 10, line 19, Pollack).

Pollack discloses the response from the user but does not specifically

disclose the prompt that is sent to the user with the potentially unwanted (spam)

email. However, Dieterman, in the same field of endeavor, discloses prompting

an administrator for approval of a potentially unwanted e-mail message

(Dieterman, column 5, lines 24-46). It would have been obvious to one having

ordinary skill in the art at the time the invention was made to incorporate an

approval prompt, disclosed by Dieterman, into the email filtering system

disclosed by Pollack, in order for parents to filter unwanted e-mail messages

(column 1, lines 41-50, Dieterman)).

3. With regards to claims 11, 23 and 35, Pollack teaches through Dieterman, a

computer program product wherein said message filtering logic is operable to

add a new test to those applied to said received e-mail messages in dependence

upon said feedback (Pollack teaches a design allowing users to add/delete

preferences (rules) dynamically or interactively (manually) (column 7, lines 48-64,

Pollack).

Pollack discloses the response from the user but does not specifically

disclose the prompt that is sent to the user with the potentially unwanted (spam)

email. However, Dieterman, in the same field of endeavor, discloses prompting

an administrator for approval of a potentially unwanted e-mail message

(Dieterman, column 5, lines 24-46). It would have been obvious to one having

ordinary skill in the art at the time the invention was made to incorporate an

approval prompt, disclosed by Dieterman, into the email filtering system

disclosed by Pollack, in order for parents to filter unwanted e-mail messages

(column 1, lines 41-50, Dieterman)).

4. With regards to claim 37, Pollack teaches through Dieterman, a computer

program product wherein said scoring algorithm is responsive to an addressee

list of said received e-mail message (Pollack teaches a design allows filtering by

many means including author (column 6, lines 19-23, Pollack).

Pollack discloses the response from the user but does not specifically

disclose the prompt that is sent to the user with the potentially unwanted (spam)

email. However, Dieterman, in the same field of endeavor, discloses prompting

an administrator for approval of a potentially unwanted e-mail message

(Dieterman, column 5, lines 24-46). It would have been obvious to one having

ordinary skill in the art at the time the invention was made to incorporate an

approval prompt, disclosed by Dieterman, into the email filtering system

disclosed by Pollack, in order for parents to filter unwanted e-mail messages

(column 1, lines 41-50, Dieterman)).

5. With regards to claim 38, Pollack teaches through Dieterman, a computer

program product, further comprising test-creating logic operable to allow creation

of a new test to be added to said at least one test provided by said e-mail filtering

logic (Pollack teaches a design allowing users to add/delete preferences (rules)

dynamically or interactively (manually) (column 7, lines 48-64, Pollack).

Pollack discloses the response from the user but does not specifically

disclose the prompt that is sent to the user with the potentially unwanted (spam)

email. However, Dieterman, in the same field of endeavor, discloses prompting

an administrator for approval of a potentially unwanted e-mail message

(Dieterman, column 5, lines 24-46). It would have been obvious to one having

ordinary skill in the art at the time the invention was made to incorporate an

approval prompt, disclosed by Dieterman, into the email filtering system

disclosed by Pollack, in order for parents to filter unwanted e-mail messages

(column 1, lines 41-50, Dieterman)).

6. With regards to claim 39, Pollack teaches through Dieterman, a computer program product wherein said computer program is arranged to receive and process e-mail messages before said e-mail messages reach an associated target e-mail server (Figure 1 of Pollack's design illustrates that such means are present.

Pollack discloses the response from the user but does not specifically disclose the prompt that is sent to the user with the potentially unwanted (spam) email. However, Dieterman, in the same field of endeavor, discloses prompting an administrator for approval of a potentially unwanted e-mail message (Dieterman, column 5, lines 24-46). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate an approval prompt, disclosed by Dieterman, into the email filtering system disclosed by Pollack, in order for parents to filter unwanted e-mail messages (column 1, lines 41-50, Dieterman)).

7. With regards to claim 40, Pollack teaches through Dieterman, a computer program product, wherein said prompt for said addressee to provide feedback is not forwarded with said potentially unwanted e-mail if an administrator identifies said e-mail message as being wanted (Pollack discloses the response from the user but does not specifically disclose the prompt that is sent to the user with the potentially unwanted (spam) email. However, Dieterman, in the same field of

endeavor, discloses prompting an administrator for approval of a potentially unwanted e-mail message (Dieterman, column 5, lines 24-46). It is also described how a message prompt does not always have to be sent. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate an approval prompt, disclosed by Dieterman, into the email filtering system disclosed by Pollack, in order for parents to filter unwanted e-mail messages (column 1, lines 41-50, Dieterman)).

8. With regards to claim 41, Pollack teaches through Dieterman, a computer program product wherein said rule associated with said e-mail filtering logic is confirmed manually (Pollack teaches a design allowing users to add/delete preferences (rules) dynamically or interactively (manually) (column 7, lines 48-64, Pollack).

Pollack discloses the response from the user but does not specifically disclose the prompt that is sent to the user with the potentially unwanted (spam) email. However, Dieterman, in the same field of endeavor, discloses prompting an administrator for approval of a potentially unwanted e-mail message (Dieterman, column 5, lines 24-46). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate an approval prompt, disclosed by Dieterman, into the email filtering system disclosed by Pollack, in order for parents to filter unwanted e-mail messages (column 1, lines 41-50, Dieterman)).

9. With regards to claim 42, Pollack teaches through Dieterman, a computer

program product, wherein said manual confirmation is not required if a

predefined number of highly trusted users positively identify said potentially

unwanted e-mail message as an unwanted e-mail message (Pollack teaches a

design with means for filtering based on the consensus of user feedbacks

(column 3, line 61 – column 4, line 18 and column 6, line 45 – column 7, line 3,

Pollack).

Pollack discloses the response from the user but does not specifically

disclose the prompt that is sent to the user with the potentially unwanted (spam)

email. However, Dieterman, in the same field of endeavor, discloses prompting

an administrator for approval of a potentially unwanted e-mail message

(Dieterman, column 5, lines 24-46). It would have been obvious to one having

ordinary skill in the art at the time the invention was made to incorporate an

approval prompt, disclosed by Dieterman, into the email filtering system

disclosed by Pollack, in order for parents to filter unwanted e-mail messages

(column 1, lines 41-50, Dieterman)).

10. With regards to claim 43, Pollack teaches through Dieterman, a computer

program product wherein said prompt for said addressee to provide feedback is

not forwarded with said potentially unwanted e-mail and said rule is not added if

said rule is not confirmed manually (Pollack teaches a design allowing users to

add/delete preferences (rules) dynamically or interactively (manually) (column 7, lines 48-64, Pollack).

Pollack discloses the response from the user but does not specifically disclose the prompt that is sent to the user with the potentially unwanted (spam) email. However, Dieterman, in the same field of endeavor, discloses prompting an administrator for approval of a potentially unwanted e-mail message (Dieterman, column 5, lines 24-46). It is also described how a message prompt does not always have to be sent. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate an approval prompt, disclosed by Dieterman, into the email filtering system disclosed by Pollack, in order for parents to filter unwanted e-mail messages (column 1, lines 41-50, Dieterman)).

(10) Response to Argument

Issue 1:

Applicant contends that neither prior arts teach "message forwarding logic operable to forward said potentially unwanted e-mail message to its addressee together with a prompt for said addressee to provide feedback as to whether or not said received e-mail message is an unwanted message."

A 103 rejection was issued with two prior arts. The Pollack art teaches a design for detecting unwanted emails. Based on a user profile, a message is analyzed and is deemed wanted or unwanted through a scoring technique. The Dieterman art also teaches a design for detecting unwanted emails. In Dieterman's disclosure it is taught that the address of the email sender is compared against a list and "allowed" senders' emails are allowed to proceed to the normal inbox. Emails with addresses not in the list are placed in an inbox for messages requiring approval. The administrator may approve such a message, wherein it is placed into the normal inbox; otherwise the email is deleted (column 5, lines 21-46, Dieterman). The Dieterman art is the secondary art in this case and the Pollack art is the primary art. The Dieterman art was used to teach that a prompt is sent to the user (administrator) and the Pollack art is used to teach the rest of the claimed subject matter.

Applicant argues that the Dieterman art requires administrator approval of potentially unwanted email messages as opposed to prompting the addressee to provide feedback as to whether or not the email is unwanted. The examiner does not concur and believes that that when the relevant portion of the Dieterman prior art is read, it is reasonable to interpret the administrator as being an addressee. In other words, the email to be judged could be addressed to the administrator (addressee) and the administrator (addressee) hence has the opportunity to determine if the email is wanted or unwanted.

Issue 2:

Applicant contends that neither prior art teach, "wherein a rule associated with said email filtering logic is added if a threshold of a predetermined number of votes positively identifies said potentially unwanted email message as an unwanted email message."

The examiner disagrees with this assertion. The Pollack prior art has user profiles containing user preferences and "relevancy thresholds." When an email is received by the system, it is analyzed and is assigned a relevancy score. This relevancy score is compared against the set "relevancy threshold" and the preferences to determine if the email is wanted or unwanted (column 6, line 45 - column 7, line 3, Pollack). User feedback is provided to refine the user's profile and it's performance to determine unwanted emails. The user provides positive

or negative feedback based on the system's performance (column 3, lines 51-60,

Pollack).

Applicant argues that the prior art doesn't provide means for "votes" and does not

teach a "threshold of a predetermined number of votes." The examiner

disagrees and believes that Pollack's design teaches "votes" within the user

feedback of positives or negatives. In addition, a threshold is set within the user

profile (column 3, lines 4-5, Pollack).

Issue 3:

Applicant contends that neither prior arts teach "wherein said potentially

unwanted email message is forwarded encapsulated within a markup language

document including a hypertext markup language document capable of being

displayed utilizing a network browser, the document providing voting buttons to

allows said addressee to provide said feedback."

The examiner again disagrees with the applicant's assertion. The Pollack prior

art teaches that the email can be displayed on a webpage (column 6, liens 30-32,

Pollack). In addition, Pollack teaches how user feedback can be provided

through a GUI (column 9, line 60 - column 10, line 19, Pollack).

Issue 4:

Applicant contends that neither prior art teaches, "wherein said scoring algorithm is responsive to an addressee list of said received email message."

The Pollack prior art teaches that the email sender can be set as one of the traits to look out for (column 6, lines 19-23, Pollack). In addition, Dieterman's design features lists "allowed" and "not allowed" addresses (Abstract).

Issue 5:

Applicant contends that neither prior arts teach "wherein said prompt for said addressee to provide feedback is not forwarded with said potentially unwanted email if an administrator identifies the email message as being wanted."

The Dieterman prior art teaches how an administrator is able to deem an email's sender as being allowed hence, placing the sender's address on the allowed list not requiring those emails to be prompted (column 5, lines 24-46, Dieterman).

Issue 6:

Applicant contends that neither prior art teaches, "wherein said rule associated with said email filtering logic is confirmed manually."

The Pollack prior art allows users to add/delete preferences (rules) dynamically or interactively (manually) (column 7, lines 48-64, Pollack).

Issue 7:

Applicant contends that neither prior arts teach "wherein said manual

confirmation is not required if a predetermined number of highly trusted users

positively identify said potentially unwanted email message as an unwanted

email message.

The Pollack prior art filters based on a consensus of user feedbacks to determine

if a message is relevant to a plurality of users (column 3, line 61 - column 4, line

18 and column 6, line 45 - column 7, line 3, Pollack).

Issue 8:

Applicant contends that neither prior arts teach "wherein said prompt for said

addressee to provide feedback is not forwarded with said potentially unwanted

email and said rule is not added if said rule is not confirmed manually."

The Pollack prior art doesn't send a prompt for the addressee to provide

feedback (The Dieterman prior art can). Plus, Pollack's design allows users to

add/delete preferences (rules) dynamically (not manually) or interactively

(manually) (column 7, lines 48-64, Pollack).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Azizul Choudhury

Conferees:

JASON CARDONE
SUPERVISORY PATENT EXAMINER

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